

DAVID Y. IGE
GOVERNOR

SHAN S. TSUTSUI
LT. GOVERNOR

STATE OF HAWAII
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
335 MERCHANT STREET, ROOM 310
P.O. Box 541
HONOLULU, HAWAII 96809
Phone Number: 586-2850
Fax Number: 586-2856
www.hawaii.gov/dcca

CATHERINE P. AWAKUNI COLÓN
DIRECTOR

JO ANN M. UCHIDA TAKEUCHI
DEPUTY DIRECTOR

**PRESENTATION OF
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
REGULATED INDUSTRIES COMPLAINTS OFFICE**

TO THE HOUSE COMMITTEE ON TOURISM

**TWENTY-EIGHTH STATE LEGISLATURE
REGULAR SESSION, 2015**

**WEDNESDAY, MARCH 18, 2015
9:30 A.M.**

**TESTIMONY ON SENATE BILL NO. 743 S.D.1
RELATING TO ACTIVITY DESKS**

**TO THE HONORABLE TOM BROWER, CHAIR,
AND TO THE HONORABLE TAKASHI OHNO, VICE CHAIR,
AND MEMBERS OF THE COMMITTEE:**

The Department of Commerce and Consumer Affairs ("Department") appreciates the opportunity to testify on Senate Bill No. 743 S.D.1, Relating to Activity Desks. My name is Daria Loy-Goto, Complaints and Enforcement Officer for the Department's Regulated Industries Complaints Office ("RICO"). RICO offers the following comments on the bill.

Senate Bill No. 743 S.D.1 requires an activity desk, at the time of licensure and renewal, to designate an individual, member, officer, director, or manager to serve as a signatory on the client trust account. The signatory also shall be

responsible for payment or reimbursement of funds based on client trust account violations, shall manage the activity desk and ensure compliance with activity desk laws and rules, and shall be subject to civil and criminal penalties as provided by law. The bill further provides that the activity desk shall notify the Director in writing within ten days of any change in signatory and shall be subject to criminal penalties for failure to designate a signatory.

This Committee heard the House companion bill, House Bill No. 723, and passed out a House Draft 1 with a defective effective date. The House Committee on Consumer Protection and Commerce heard and deferred House Bill No. 723 H.D.1.

Senate Bill No. 743 S.D.1 differs from House Bill No. 723 H.D.1 in that the Senate version specifies the persons who can serve as the designated signatory, does not exempt activity desks who do not accept consumer funds, and no longer requires an activity desk to submit monthly client trust account reports to the Department.

The purpose of this bill is to identify an individual who is responsible for the management of the activity desk. This designation will assist client trust beneficiaries as well as the Department in identifying the appropriate individual to communicate with regarding the operations of the activity desk.

The Department's Activity Desk Program and RICO are continuing to work with the bill's proponent on additional amendments to the bill. The proposed amendments require an activity desk to designate a principal, who shall have direct

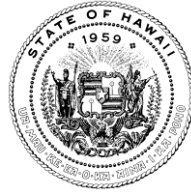
management and supervision of the activity desk, and require an activity desk to provide the Department with the name and contact information for the designated principal at the initial registration and at renewal. The proposed amendments also require the activity desk to disclose the name and contact information of the principal to a client trust account beneficiary upon request.

RICO supports these proposed amendments to the bill. Activity providers have expressed concerns that there is insufficient oversight of the handling of client trust accounts, and the proposed amendments will strengthen oversight by designating an individual with supervisory and management responsibility.

From a licensing perspective, this bill does not create new or separate registration requirements for designated principals or give rise to disciplinary action against designated principals. Administrative enforcement would focus on ensuring that the activity desk met the new requirements by designating a principal, notifying the Department of any change in the principal, and disclosing the name and address of the principal upon request.

We will continue to work with all interested parties and appreciate the Committee's consideration of the Department's proposed amendments.

Thank you for the opportunity to testify on Senate Bill No. 743 S.D.1. I will be happy to answer any questions the members of the Committee may have.



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PRESENTATION OF THE ACTIVITY DESKS PROGRAM

TO THE HOUSE COMMITTEE ON TOURISM

TWENTY-EIGHTH LEGISLATURE
Regular Session of 2015

Wednesday, March 18, 2015
9:30 a.m.

TESTIMONY ON SENATE BILL NO. 743, S.D. 1, RELATING TO ACTIVITY DESKS.

TO THE HONORABLE TOM BROWER, CHAIR,
AND MEMBERS OF THE COMMITTEE:

My name is Carol Kramer and I am the Executive Officer for the Activity Desks program, Department of Commerce and Consumer Affairs ("Department"). The Department thanks you for the opportunity to present testimony in support of the intent of Senate Bill No. 743, S.D.1, with the suggested amendments as attached.

Senate Bill No. 743, S.D.1, proposes to require: 1) an activity desk to designate an individual, officer, director, member, or manager who shall be a signatory on and fully responsible for the client trust account; 2) specify responsibilities of the designated signatory; and 3) amends existing criminal penalties under Chapter 468M, Hawaii

Revised Statutes (“HRS”), to include violations of signatory requirements for activity desks.

The Department will continue to work with the proponent of this bill, and is recommending the creation of a new section to appropriately discuss the requirements of an activity desk principal. The Department believes that the current language of this bill on page 2, lines 20-21, and page 3, lines 1-11, is inappropriately placed in section 468M-9, HRS, which outlines the requirements and maintenance of client trust accounts.

The Department’s attached language proposes to:

- Require upon registration and renewal, the activity desk to designate and identify a principal who shall have direct management and supervision of the activity desk. This principal shall also be a signatory on any client trust account.
Further, the activity desk shall provide notification of changes to this designation in writing to the Department within ten (10) days after the change.
- Define "principal" to mean a “corporate officer or director, a partner in a partnership, a sole proprietor, or an individual with an ownership interest in the activity desk.” The proposed language also indicates that the principal shall be a signatory of any client trust account of the activity desk.
- Require the activity desk to disclose the name and contact information of the activity desk principal to a client trust account beneficiary upon request.

The Department recommends a delayed implementation date of December 31, 2017, to disclose the newly designated activity desk principal to the Department. This

will allow the Department sufficient time to notify its current registrants of the statutory changes. Furthermore, the delayed implementation date would provide ample time for the currently licensed activity desk registrants to comply with these new requirements.

Thank you for the opportunity to testify in support of the intent of Senate Bill No. 743, S.D. 1, subject to the suggested recommendations as attached.

SECTION 1. Chapter 468M, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§468M- Activity desk principal; responsibilities. (a)
Each activity desk shall designate a principal who shall have direct management and supervision of the activity desk, including but not limited to compliance with sections 468M-9 and 468M-10. For purposes of this section, "principal" means a corporate officer or director, a partner in a partnership, a sole proprietor, or an individual with an ownership interest in the activity desk. The principal shall be a signatory of any client trust account of the activity desk.

(b) The activity desk shall identify the activity desk principal at the time of registration and renewal and shall provide notification in writing to the department within ten days after any change in designation.

(c) The activity desk shall disclose the name and contact information of the activity desk principal to a client trust account beneficiary upon request."

SECTION 2. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect upon approval provided that effective with the December 31, 2017 renewal and all renewals thereafter the activity desk shall identify the activity desk principal to the department.



Activities & Attractions Association of Hawaii
PO Box 598, Makawao, Hawaii 96768
(808)871-7947 Main (808)877-3104 Fax

LATE

Testimony to the House Committee on Tourism
Wednesday, March 18, 2015, 9:30 am
Conference Room 312

RE: SUPPORT OF SB 743, SD1 RELATING TO ACTIVITY DESKS

Chair Bower, Vice Chair Ohno & Members of the committee;

Mahalo for this opportunity to testify, my name is Toni Marie Davis. For the last 17 years it has been my honor to serve the activity & attraction industry of Hawaii through my position as the Executive Director of the Activities & Attractions Association of Hawaii (A3H). **A3H strongly SUPPORTS SB743, SD1 with small changes. So sorry I am not able to provide testimony in person and also for this testimony being late.**

This Bill's companion Bill, HB723 was heard & passed on 02/04/15 by this committee. Since this time DCCA and A3H have met several times to establish compromised & improved language. DCCA will be providing a slight variation to SD1 which we support with one exception:

The Department is seeking an effective date of 12/31/2017. We would prefer, due to the increasing trend of Activity Desks closing their doors that the effective date be: 12/31/2015. We support the following language:

"§468M- Activity desk principal; responsibilities. (a) Each activity desk shall designate a principal who shall have direct management and supervision of the activity desk, including but not limited to compliance with sections 468M-9 and 468M-10. For purposes of this section, "principal" means a corporate officer or director, a partner in a partnership, a sole proprietor, or an individual with an ownership interest in the activity desk. The principal shall be a signatory of any client trust account of the activity desk.

(b) The activity desk shall identify the activity desk principal at the time of registration and renewal and shall provide notification in writing to the department within ten days after any change in designation.

(c) The activity desk shall disclose the name and contact information of the activity desk principal to a client trust account beneficiary upon request."

Thank you for the opportunity to testify.

With sincere apologies for not attending in person,
Toni Marie Davis
Executive Director